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ABSTRACT

Prepared by the District of Columbia Street Law Project for its annual city-wide mock trial competition, this instructional handout provides material for a civil case over an automobile accident. After drinking heavily at a party hosted by Sandy Hearst, Dana Ivy ran a stop sign and struck the car of Terry Vickers, causing him to sustain a broken leg; bruised ribs; and lacerations to the upper torso, neck and face. Through an out-of-court settlement, Ivy agreed to pay for the repair of Vickers' automobile and for less than half of her medical bills. For the remainder of the medical bills, for suffering, and for loss of potential earnings, Vickers is suing Hearst, whom she charges with negligence for serving alcoholic beverages. The handout clarifies the law and explains the legal precedents. As evidence, the handout provides the police report; Ivy's refusal to submit to a chemical test for alcohol; a table describing the effects of alcohol upon driving ability; and witness statements from the friend who accompanied Ivy to the party, the police officer at the scene, Hearst, Ivy, and another participant at the party. Through participation in mock trials and analysis of the activity, students gain an insider's perspective on courtroom procedure and a basic understanding of the legal mechanism through which society resolves its disputes. Mock trials develop critical analysis, questioning and listening skills, and skills in preparing and organizing materials. (JD)

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Statement of Facts for 1983 City-Wide Mock Trial Competitions

1983 Mock Trial

The Case of Vickers v. Hearst

(This case involves the
liability of hosts for auto accidents
involving persons served alcoholic beverages)

Prepared by the
National Institute for Citizen Education in the Law

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ED 378 119

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SUPERIOR COURT OF THE
STATE OF NEW YORK

CIVIL DIVISION

TERRY VICKERS, plaintiff

versus

SANDY HEARST, Defendant

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No. MT-84

STATEMENT OF STIPULATED FACTS *

Early on the morning of December 16, 1983, a two car automobile accident occurred at the intersection of Justice and Jones Streets, in Albany, NY. Terry Vickers, the driver of a 1978 Toyota coupe, was taken to the Northeast Regional Medical Center and hospitalized for treatment of a broken leg, bruised ribs, and lacerations to the upper torso, neck and face. The other car, a 1975 Chevrolet sedan, was driven by Dana U. Ivy. Ivy was not injured.

Before the accident occurred, Ivy had attended a pre-Christmas party hosted by Sandy Hearst, a recent Tri-City College graduate. The party was held at the "Breaks" Club, a social club for young business people and business-bound college students, which Hearst founded while a student at Tri-City, and which he now solely owns and operates. The clubhouse is located two miles from the scene of the accident.

Ivy pleaded guilty to running a stop sign and driving while intoxicated.

Vickers has reached an out-of-court settlement with Ivy for any claims that Vickers might have arising from the accident. Because this settlement covered only the cost of repairing her car and less than half of her medical bills, Vickers has filed suit against Sandy Hearst. In this suit, Vickers alleges that Hearst negligently served alcoholic beverages to Dana Ivy in violation of Section 65 of the New York Alcoholic Beverages Control Law, and Section 11-101 of the New York General Obligations Law (Dram Shop Act). Vickers' suit further alleges that Vickers' injuries in the automobile accident resulted from Hearst's negligence. In the suit, Vickers want the remaining \$20,000 in medical bills, \$200,000 for pain and suffering and \$200,000 for lost earning potential.

The Defendant denies any liability for negligently serving alcoholic beverages to Ivy. However, the remaining amount of \$20,000 in medical bills and \$200,000 for lost earnings is stipulated to and need not be proven at trial. Any amount for pain and suffering is at issue.

Witnesses for Plaintiff

Terry Vickers, plaintiff
Kim Simmons, police officer
Lee Potter, guest at party

Witnesses for Defendant

Sandy Hearst, defendant
Dana U. Ivy, driver
Jamie M. Fulton, guest at party

*This case is hypothetical. Any resemblance between the fictitious persons, facts, and circumstances described in this mock trial and real persons, facts, and circumstances is coincidental.

NOTES

1. All witness affidavits have been signed and sworn to by the affiants before a notary public three weeks before the trial.
2. Judges have already been provided with the "Statement of Stipulated Facts," "NY Alcoholic Beverages Control Law, Section 65," "NY General Obligations Law, Section 11-101," and their "Legislative Backgrounds," of which judges have been asked to take judicial notice.

Alcoholic Beverages Control Law

Sec. 65 Prohibited Sales

No person shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any alcoholic beverages to

1. Any minor, actually or apparently, under the age of 19 years;
2. Any intoxicated person or to any person, actually or apparently, under the influence of liquor;
3. Any habitual drunkard known to be such to the person authorized to dispense any alcoholic beverages.

Neither such person so refusing to sell or deliver under this section nor his employer shall be liable in any civil or criminal action or for any fine or penalty based upon such refusal, except that such sale or delivery shall not be refused, withheld from or denied to any person on account of race, creed, color or national origin.

General Obligations Law* **

Sec. 11-101 Compensation for injury caused by the illegal sale of intoxicating liquor.

1. Any person who shall be injured in person, property, means of support, or otherwise by any intoxicated person, or by reason of the intoxication of any person, whether resulting in his death or not, shall have a right of action against any person who shall, by unlawful selling to or unlawfully assisting in procuring liquor for such intoxicated person, have caused or contributed to such intoxication; and in any such action such person shall have a right to recover actual and exemplary damages.
2. Such action may be brought in any court of competent jurisdiction.

*Section 16 of the Civil Rights Law (11-101, General Obligations Law) must be read in conjunction with Section 65 of the Alcoholic Beverage Control Law, which prohibits the sale or giving of liquor to any intoxicated person or to any person actually or apparently under the influence of liquor. (Mitchell v. Shoals, 1966.)

**The language "any person" is clear and explicit and in the context in which it appears is limited to any third party injured or killed by the intoxicated person by reason of his intoxication. (Mitchell v. Shoals, 1966.)

Affidavit of Terry Vickers, Plaintiff

My name is Terry Vickers and I live at 3817 Cherry Road. I am a model for the Smithson Agency. On the morning of December 16, I was on my way home from visiting a friend. She had come from California to visit her parents, so I stopped at their house after work. I was driving down Jones Street at about 30-35 mph. There was hardly any traffic. There is a stop sign for the traffic on Justice Street at the intersection of Justice and Jones. As I proceeded through the intersection, I noticed this Chevy speeding at me from my left side on Justice Street. I slammed on the brakes, but the Chevy never stopped. It was as though the driver never saw me or the stop sign. The Chevy's headlights were not turned on. Just before we crashed, the driver slammed on the brakes. Then he skidded into my car at the door on the driver's side. After the accident, as I lay on the stretcher, I saw Ivy, the driver, talking to the police. Ivy was mumbling badly. Ivy had trouble standing up straight. Ivy was clearly drunk.

I woke up in the hospital with a lot of bandages on, because I had cuts all over my neck, back, chest, and face. My leg was in a cast because it was fractured in the accident. I had bruises and sore ribs. In addition, I had to have extensive plastic surgery because of the lacerations to my face and neck. I had just gotten started in photographic modeling after months of sending in portfolios and doing department store fashion shows. The job I was working on at the time of the accident was for a new "I Love NY" campaign. It was a great opportunity for a lot of exposure. Now because of the extent of the scarring, finding any modeling work will be next to impossible. My whole career and livelihood are down the drain because of that jerk.

Naturally, Ivy had only the minimum amount of insurance, an amount that doesn't even cover half of my medical bills. They're all just a bunch of bums, getting drunk, then tearing around like something crazy for the sake of a sacred holiday. Somebody needs to put a stop to it.

/s/ Terry Vickers, 1/6/84

Affidavit of Lee Potter, Witness for Plaintiff

My name is Lee Potter, and I live at 4319 Eva Drive in Schenectady, New York. I am a Freshman at Tri-City College.

Although I had seen Sandy Hearst once or twice around campus, I did not really know Sandy. Sandy is the owner of one of the big area social clubs, "The Breaks," to which many students belong, so it's hard not to know of someone as popular as Sandy. Sandy invited Dana Ivy and me to Sandy's party because Sandy knew we were interested in joining "The Breaks."

I thought that it was awfully far to go for a party, but Dana said he would drive. When we got to the door of the clubhouse at about 11:00 p.m., Sandy greeted us and asked if we had parked. Sandy warned us that if we had parked in the fire lane, we might get towed. I said that Dana had parked down the street.

First, Sandy offered me some punch. The punch in the big bowl, Sandy said, was for the "party people." The little punch bowl, Sandy explained, is for the "non-boozers, if there are any here." There were also soft drinks and beer in a refrigerator near the punch table. Sandy said, "Help yourself." Sandy served Dana a cup of the spiked punch, and I took a bottle of beer.

There was a lot of very loud music and about 60 people drinking, dancing, and talking. I thought Sandy was a real jerk, and I was ready to leave 5 minutes after I got there. But Dana was having a ball, so I had to wait. Dana got another cup of the spiked punch and wandered away. I didn't see much of Dana after that until much later, because I was in the back of the clubhouse playing a Defender video game. However, about 12:30 a.m., I did notice Sandy handing a bunch of people bottles of beer. One of those people was Dana. At about 1:00 a.m. Dana came back to challenge another club member, Jamie, to a game of Defender. I was playing at the time, but Dana just shoved me out of the way. Dana's move startled me, and my punch fell all over my pants. Dana was holding a half empty beer bottle and seemed to pay no attention to me. Dana and I are friends, and only if drunk would Dana ever be so rude to me. I went to the bathroom to try to clean off my pants.

Well, apparently Sandy thought Dana was acting pretty obnoxious, too, because when I returned from the bathroom about 5 minutes later, Sandy was throwing Dana out. There was some shouting and arguing between Dana and Sandy; then Dana stormed out. I got mad at Sandy and Jamie and told them that they shouldn't make Dana leave. Sandy said that Dana wouldn't be allowed to start fighting at this party over a damn game. "The Breaks are about fun, not violence," Sandy said. Sandy was so unconcerned about Dana, and they're supposed to be friends. I knew then that I wouldn't join that so-called "club" in a million years.

Sandy knew Dana was drunk. As strong as that punch was, one could not help but be drunk. Sandy should have known there would be an accident, as far as Dana had to drive to get home.

I didn't want to leave with Dana because I was so mad, and he was so drunk. But right after he left, I went outside to try to stop the car. When I got to the street, I saw from the distance that the car was gone. All that was left in the space was Dana's empty punch cup.

/s/ Lee Potter, 1/7/84

Affidavit of Kim Simmons, Witness for Plaintiff

Early in the morning of December 16, 1983, I came onto the scene of a 2-car accident involving Dana U. Ivy and Terry Vickers. Ivy was in a Chevrolet and Vickers was in a Toyota. There was personal injury to Vickers, so I radioed for an ambulance. Vickers was bleeding and in obvious pain. Vickers' car had been hit by Ivy when Ivy ran a stop sign. Ivy got out of the car and started crying. Ivy tried to take one step, but stumbled and fell to the ground. Ivy was still crying, saying "I'm sorry, I'm sorry! Oh, God! What did I do?" I noticed that Ivy was mumbling and stammering. Ivy's eyes were bloodshot and dilated. Ivy smelled like alcohol. I gave Ivy a few minutes to gain compusure. After the ambulance had picked up Vickers, I read Ivy's rights. Ivy answered all questions, but refused to take any type of chemical sobriety test. I placed Ivy under arrest. I then looked in his car, and on the floor under Ivy's seat, there were 3 empty beer bottles. Because I had reasonable cause to believe that Ivy was intoxicated, and that as a result Vickers suffered serious personal injury, I obtained, via my police radio, a court order for Ivy to undergo a blood test. Unfortunately before the results of that test could be obtained, they were lost.*

/s/ Kim Simmons, 1/6/84

*Effective October 13, 1983 in New York State, for any driver who is placed under arrest and who refuses to submit to a standard chemical sobriety test, the arresting officer may obtain a court order to force the driver to submit to such a test, if it is apparent that the driver has caused death or serious personal injury.

Affidavit of Sandy Hearst, Defendant

My name is Sandy Hearst, and I live at 8772 Shady Tree Lane, Apartment 7. I am a sales representative for the Mutual Opportunity Insurance Company of New York. I am a graduate of Tri-City College, and I am the owner/operator of "The Breaks," a social club. My club recruits members from local colleges, including Tri-City College. That's how I met Dana.

One of the purposes of our club is to promote lasting business, professional and social ties between our younger brothers and sisters at the college and those of us who are making it in the real world. It is hoped that these contacts can translate into job opportunities for our younger members once they have graduated. Thus far, our network has proven successful in a number of instances. In order to promote our network, I held a holiday get together at the club on December 15 for some of my club members and other prominent friends in the professional community. That's why I invited Dana to the party.

I provided food, soft drinks, beer, and punch. I made the punch myself, with a little rum in one batch, but it was no more intoxicating than rum cake. I did not serve any hard liquor or wine at the party, because I couldn't afford the expense.

I didn't pay attention to Dana at the party because I had a lot of guests, but from what I saw, Dana just talked and acted like any normal person would at this kind of function. Dana did act pretty lively during the party at one point dancing on a table; but, Dana has an outgoing personality. Dana wanted Lee to loosen up and enjoy the party but Lee was a real loser—definitely not the kind of person we would want to join "The Breaks." I told this to Lee. Lee walked off and spent the rest of the evening playing video games.

I saw Lee hassle Dana at the Defender game, and then I saw Lee stomp off. I figured that Lee left the party. Jamie and Dana played Defender. When I saw them almost turn the machine over about 5 minutes later, I guess I lost my temper. I told Dana: "You should leave if you can't act more civilized." I didn't know Dana would really leave. A couple of minutes later, I saw that Jamie had returned, but I didn't miss Dana until Lee confronted me. Lee started yelling at me "Where's Dana! That's my ride! How could Dana leave without me! Now, I'm stranded, and it's your fault!" I had no way of knowing that Dana was driving.

I know that Dana wasn't drunk when leaving the party. As far as I know I gave Dana some punch on arrival, and perhaps a beer later on. I saw Dana eat a lot of food, too, and that would have cut the effect of any alcohol.

/s/ Sandy Hearst, 1/7/84

Affidavit of Dana U. Ivy, Witness for the Defense

My name is Dana U. Ivy, and I live at 4210 Eva Drive in Schenectady, NY. I am a sophomore at Tri-City College.

Let me start by saying that I was not drunk when I left the party. I was tired from being up late studying the night before and being in classes all day, but I was not drunk. How could I be drunk? All I had at that party was a few cups of that weak punch that Sandy made, and a few beers. It's just like Sandy to try to have a party as cheaply as possible. I couldn't have gotten drunk on that punch if I had drunk the whole bowl.

Things just didn't go well for me the whole night. First, Sandy didn't have any time for me at the party. I figured I might make some good contacts at this party with a little help from Sandy. Sandy didn't spend five minutes with me at the party, except to say hello and goodbye. I thought I overheard Sandy telling someone that I would never make "The Breaks." Of course, I now know that this probably was not true, because Sandy sponsored my membership just last month.

Then, Lee threw a drink on me after I asked to play a video game. While I was playing the Defender game, the darn machine jammed. Jamie and I knocked it over from trying to make it start up again. I guess Sandy thought we were fighting, and Sandy asked me to leave. It made me mad when Sandy told me to go.

I grabbed a couple of beers and split. After the accident, I was really upset. I just couldn't believe how bad things were going. I cried and trembled from being scared, both for myself being stopped by the cops, and for the other driver.

The prosecutor said that since this was my first offense, I could get a suspended sentence, a \$350. fine and a six-month suspension of my driver's license, if I pleaded guilty to the traffic charges. If I were going to fight it, he said he'd throw the book at me; so I pleaded guilty to the traffic and drunk driving violations.

/s/ Dana U. Ivy, 1/6/84

Affidavit of Jamie M. Fulton, Witness for the Defense

My name is Jamie M. Fulton, and I live on the campus of Tri-City College in Albany, NY. I am a Senior at Tri-City College, and a member of "The Breaks" club.

I was at the get-together on December 15th from start to finish, because I rode the bus out early in the day, and planned to spend the night with my cousin, who lives next door to the "Breaks" clubhouse owned by Sandy Hearst.

I was with Dana at the party. Dana was drinking at the party, but all I saw him have was two 6 oz. cups of punch, and two beers. The punch was spiked, but considering all the pretzels, chips, and popcorn we ate, Dana couldn't have been really drunk. I had a cup of punch myself, and I didn't even feel it. I didn't drink any more because I didn't like the way it tasted.

Dana did move Lee off of the chair in front of the Defender game in the party room at about 1:00 a.m. But, Lee was asking for it. Lee was a party pooper. Lee wouldn't dance or mix with people, and hogged the Defender game when it was obvious that others wanted to play. Dana got sick of it and nudged Lee a little. Lee fell out of the chair. Lee had a few beers, and was probably drunk. Lee was jealous that Dana was so popular and was having such a good time. Lee got mad and ran out of there. I couldn't blame Dana.

Dana played for a few minutes and was running up a high score. Then, the machine jammed, and Dana started hitting it. The machine started falling over, and Dana and I fell trying to catch it. I guess Sandy noticed this and jumped to the wrong conclusion. So Sandy told us to go outside and cool off. I took my soft drink and Dana took a couple of beers, and we went outside. Dana walked steadily, and spoke clearly, and then left at about 1:15 a.m.

Except for the incident at the Defender machine, I don't think I saw Sandy with Dana more than a few minutes the whole evening.

Dana wasn't drunk, but was mad with Sandy. I don't know why Lee and Dana didn't like Sandy. Sandy was the one who helped me get a job working for Mutual Opportunity Insurance Company last summer, and I've known Sandy to help several of the undergraduate members find part-time jobs.

/s/ Jamie M. Fulton, 1/8/84

DOCUMENTS

2 167A 12/73

METROPOLITAN POLICE DEPARTMENT Albany, New York		DEFENDANT'S TRUE NAME (I.D. ONLY)		COMPLAINT NUMBER 108	
PROSECUTION REPORT FOR PERSONS DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS		DEFENDANT'S NAME (LAST-FIRST-MIDDLE) Ivy, Dana U.		I.D. NUMBER	
PROSECUTOR'S CHARGES		NICKNAME OR ALIAS N/A		PHONE NUMBER 801	
		ADDRESS 4210 Eva Dr		BIRTHPLACE NY	
PROSECUTOR'S NAME		DATE 7/29/63	HT	WT	HAIR
		SEX	RACE	DCS	EYES
PERMIT NUMBER AND STATE		OCCUPATION Student			SOCIAL SECURITY NO.
		FILM NO.			
CHARGE(S)- INCLUDE TVC NUMBER					ACCIDENT
Driving while intoxicated and Running Stop Sign					
LOCATION OF OFFENSE Justice & Jones Streets				DATE 12/16/83	TIME 1:45 am
LOCATION OF ARREST Justice & Jones Streets				DATE 12/16/83	TIME 2:10 am
ARRESTING OFFICER Kim Simmons		BADGE 2837755	ORG EL	ASSISTING OFFICER N/A	BADGE
MAKE Chev.		MODEL 4 dr	TAG NUMBER 80808	STATE NY	NO. OF PASSENGERS IN DEFENDANT'S AUTO 1
AUTO USED	OWNER'S NAME driven				PHONE NUMBER
WITNESS'S NAME Terry Vickers					AGE 24
STREET ADDRESS-CITY-STATE-ZIP CODE 8817 Cherry Rd.					HOME PHONE 463-2222
					OFFICE PHONE 458-3333
OBSERVATIONS PERTAINING TO THE DEFENDANT					
DEFENDANT WAS: ☒ CONSCIOUS ☐ UNCONSCIOUS		DEFENDANT'S CLOTHES WERE: ☐ DISARRANGED ☒ ORDERLY ☐ PARTLY DRESSED ☐		UNUSUAL ACTIONS OF DEFENDANT: ☐ CURSING ☒ FIGHTING ☐ VOMITING ☒ CRYING	
DEFENDANT'S EYES WERE: ☐ NORMAL ☒ BLOODSHOT ☐ BLANK STARE ☐ WATERY		DEFENDANT'S PUPILS WERE: ☒ DILATED ☐ CONTRACTED		DEFENDANT'S FACE WAS: ☐ NORMAL ☐ RED ☐ PALE ☐ FLUSHED ☐ BLOATED	
DEFENDANT'S MOOD WAS: ☐ COOPERATIVE ☐ TALKATIVE ☐ SILENT ☒ SAD ☐ SARCASTIC ☐ EXCITED ☐ POLITE		DEFENDANT'S BALANCE WAS: ☐ STAGGERING ☐ SLIGHTLY UNSTEADY ☐ WAVERING ☐ UNABLE TO STAND ALONE			
ODOR OF ALCOHOL WAS: ☐ NONE ☒ STRONG ☒ FAINT ☐ NOT CLOSE ENOUGH TO KNOW		DEFENDANT'S SPEECH WAS: ☐ NORMAL ☐ DID NOT HEAR HIM TALK ☐ INCOHERENT ☒ CONFUSED ☒ MUMBLED ☐ CERTAIN ☐ LOUD			
DID YOU SEE ANY ALCOHOLIC BEVERAGE OR CONTAINERS					
1. IN THE DEFENDANT'S VEHICLE? ☐ NO ☒ YES TYPE Empty beer bottles LOCATION Under front seat, drivers					
2. ON THE DEFENDANT'S PERSON ☐ NO ☒ YES TYPE LOCATION					
ASK THE DEFENDANT THE FOLLOWING QUESTIONS					
ARE YOU A DIABETIC? ☒ NO ☐ YES		ARE YOU USING INSULIN? ☐ NO ☐ YES		USED A MOUTHWASH RECENTLY? ☒ NO ☐ YES	
IF YES, WHEN?					
ARE YOU UNDER THE CARE OF A DOCTOR OR DENTIST? ☒ NO ☐ YES		IF YES, WHY?			
ARE YOU USING MEDICINE? ☒ NO ☐ YES		IF YES, WHAT KIND?		WHEN WAS IT LAST USED?	
ADVISE THE DEFENDANT OF HIS RIGHTS BEFORE ASKING THE FOLLOWING QUESTIONS					
DATE ADVISED 12-16-83	TIME 2:15 am	LOCATION Justice & Jones	ADVISING OFFICER Kim Simmons		BADGE 2837755
DO YOU ADMIT TO DRINKING ANY ALCOHOLIC BEVERAGES RECENTLY? ☐ NO ☒ YES		IF YES, WHAT? a few beers		HOW MUCH? a few beers	TIME STOPPED 11:00 pm
WHERE DID YOU DRINK THE ALCOHOLIC BEVERAGES? 8772 Shady Tree Lane		HAD ANYTHING TO DRINK SINCE THE ACCIDENT? ☒ NO ☐ YES		IF YES, WHAT? HOW MUCH?	
SPECIMEN INFORMATION					
FIELD TEST RESULTS (ALCOHOL TEST) ☐ POSITIVE ☐ NEGATIVE		TESTS UNDER IMPLIED CONSENT ACT ☒ CONSENTED ☐ REFUSED		OFFICER ADMINISTERING TESTS	
TEST 1- TYPE OF SPECIMEN		DATE AND TIME OF TEST 1		MACHINE NUMBER	
TEST 2- TYPE OF SPECIMEN		DATE AND TIME OF TEST 2		MACHINE NUMBER	
				BREATHE TEST RESULT	

State of New York - Department of Motor Vehicles
REPORT OF REFUSAL TO SUBMIT TO CHEMICAL TEST

INSTRUCTIONS:

Arresting Officer: Complete this form in quadruplicate. Keep 1 copy, submit 2 copies to the court at the arraignment, bring one copy to DMV Hearing.

Court: After the arraignment, keep one copy for court records. Send the remaining copy within 48 hours of the arraignment to the Department of Motor Vehicles, Safety Hearing Bureau, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12228.

TO: Commissioner of Motor Vehicles

Name of Driver Ivy, Dana U. Date of Birth 7/29/63Number & Street 4210 Eva Drive City Schoenectady State NY ZIP Code 12205

The driver possessed a: ☒ Driver's License
☐ Learner's Permit

Motorist Ident. No. 11122776552203141863State or Province of Issue New YorkDate of Expiration 7/29/85

License Validation No. (Non-Resident Only) _____

Did a reportable accident occur? ☒ Yes ☐ NoNew York State County of: Albany Town/City of AlbanyPolice Officer Kim Simmons deposes and says that: On December 16, 19 83at Justice and Jones Sts. he arrested the above driver on a charge of:
Location

- ☒ DRIVING WHILE IN AN INTOXICATED CONDITION
☐ DRIVING WHILE ABILITY IS IMPAIRED BY THE USE OF DRUGS
☐ DRIVING WHILE ABILITY IS IMPAIRED BY THE CONSUMPTION OF ALCOHOL

and he had reasonable grounds of the indicated charge based on the following facts: Ivy ran a stop sign and collided

with a car driven by Terry Vickers, causing serious personal injury to
Vickers. Ivy's speech was slurred; he had trouble keeping his balance. One

Thereafter, the driver was warned as follows (check warning or warnings given): beer bottles were found in Ivy's car.

- ☒ "Refusal to submit to chemical test will result in immediate suspension and subsequent revocation of your license or operating privilege whether or not you are found guilty of the charge for which you were arrested."
☒ "Your refusal to submit to a chemical test can be introduced in evidence against you at any trial, proceeding or hearing resulting from this arrest."

After such warning(s), the driver was asked "Will you submit to a chemical test for: ☒ ALCOHOL ☐ DRUGS?"

The driver refused to submit to a ☒ BLOOD ☒ URINE ☒ SALIVA ☐ BREATH test and indicated his refusal by: "I'm not
drunk. I'm just tired and nervous from the pressure of final exams."
 Exact words used by driver

in the presence of Kim Simmons at intersection of Justice and Jones Sts.

Name of person who requested chemical test if other than deponent _____

Name of Police Officer Kim Simmons
Please PrintSignature of Police Officer Kim Simmons

Title of Police Officer _____

Police Agency Albany police dept.Time of Arrest 2:10 ☒ A.M. ☐ P.M.Time of Refusal 2:20 ☒ A.M. ☐ P.M.

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS "A" MISDEMEANOR PURSUANT TO
 SECTION 210.45 OF THE PENAL LAW.

* Briefly describe condition and actions of driver prior to and at time of arrest.

** Give specific location, e.g., Dr. John Doe's Office, 23 Main Street, Anytown, N.Y. 12406; Place of arrest: On Route 5, 1 mile east of Utica, N.Y.

BLOOD-ALCOHOL CONTENT

According to body weight and number of drinks consumed

BODY WEIGHT	DRINKS (Two Hour Period)											
100	1	2	3	4	5	6	7	8	9	10	11	12
120	1	2	3	4	5	6	7	8	9	10	11	12
140	1	2	3	4	5	6	7	8	9	10	11	12
160	1	2	3	4	5	6	7	8	9	10	11	12
180	1	2	3	4	5	6	7	8	9	10	11	12
200	1	2	3	4	5	6	7	8	9	10	11	12
220	1	2	3	4	5	6	7	8	9	10	11	12
240	1	2	3	4	5	6	7	8	9	10	11	12
BAC= Blood Alcohol Content	CAUTION... Keep your BAC below .04%				DRIVING WHILE IMPAIRED ABOVE .05%				DRIVING WHILE INTOXICATED (DWI) .10% and up			
	YOU'RE PLAYING IT SAFE.				FIRST OFFENSE: - \$250 Fine - Up to 15 days in jail - 90-day loss of license				FIRST CONVICTION: - \$350-\$500 Fine - Up to one year in jail - Possible 3-year probation - Minimum 6 months loss of license			

.02% =  1 glass of wine OR  1 oz. of whiskey OR  1 can of beer